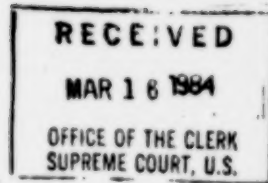


6-cv-2

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1983

13

NO. 83 - 6381

GILL PARKER, ET AL.,

PETITIONERS

V.

JOHN R. BLOCK, Secretary of the
United States Department of Agriculture

and

CHARLES ATKINS, Commissioner of the
Massachusetts Department of Public Welfare,

RESPONDENTS

SUPPLEMENT TO PETITION FOR
WRIT OF CERTIORARI TO THE COURT
OF APPEAL FOR THE FIRST CIRCUIT

Steven A. Hitov
Attorney for Petitioners
Western Mass. Legal Services, Inc.
145 State Street
Springfield, MA 01103
Tel. (413) 781-7814

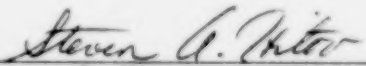
J. Paterson Rae
Western Mass. Legal Services, Inc.
145 State Street
Springfield, MA 01103
Tel. (413) 781-7814

5/12

Petitioners submit this supplement to their Petition for Writ of Certiorari to inform the Court that their motion for an extension of time to file a petition for rehearing before the Court of Appeals for the First Circuit was denied by that court on March 6, 1983. This information supplements statements found on pages one and seven of the Petition indicating that the motion had not yet been acted upon. A copy of the First Circuit's order is appended hereto.

Respectfully submitted,

Dated: March 14, 1984


Steven A. Hitov
J. Paterson Rae
Attorneys for Plaintiffs
Western Mass. Legal Services
145 State Street
Springfield, MA 01103
Tel. (413) 781-7814

CERTIFICATE OF SERVICE

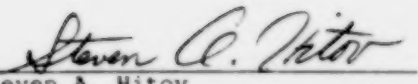
I, Steven A. Hitov, certify that on March 14, 1984 I served the annexed Supplement to Petition For Writ of Certiorari on the Respondents by mailing a true copy of same by first class mail, postage prepaid to:

Ellen Janos, Esq.
Attorney for Respondent Atkins
Department of the Attorney General
One Ashburton Place, Room 2019
Boston, MA 02108

Nicholas Zeppos, Esq.
Attorney for Respondent Block
Appellate Staff, Room 3639
Department of Justice
Washington, D.C. 20530

Solicitor General
Department of Justice
Washington, D.C. 20530

Dated: March 14, 1984


Steven A. Hitov
Attorney for Petitioners
Western Mass. Legal Services
145 State Street
Springfield, MA 01103
Tel. (413) 781-7814

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 83-1270

KAREN FOGGS, ET AL.,
Plaintiffs, Appellees,

v.

JOHN R. BLOCK,
Defendant, Appellee.

THOMAS SPIRITO, ETC.,
Defendant, Appellant.

No. 83-1320

KAREN FOGGS, ET AL.,
Plaintiffs, Appellees,

v.

JOHN R. BLOCK,
Defendant, Appellant.

ORDER OF COURT

Entered: March 6, 1984

Plaintiff-appellees seek an enlargement of time to file a petition for rehearing from December 7, 1983 to February 10, 1984. This request, over two months after our decision, springs mainly from an arguable inconsistency between our opinion and that in Levesque v. Block, decided by another panel of our court on December 20, 1983.

Leaving aside the fact that Levesque was handed down seven weeks before the motion was submitted, we see nothing more than a facial similarity between the two cases. In Levesque a prior regulation calling for greater food stamp benefits never having been legally changed (because a replacement regulation was void), retroactive benefits were awarded — but only until final regulation reflecting a belated comment opportunity was issued. In Foggs, however, the prior level of benefits had been legally lowered by no less authority than an act of Congress. The command of 7 U.S.C. § 2033, never argued to us in brief or oral argument, is to restore them, but in no other case.

As for 7 U.S.C. § 2020 (e) (10), requiring advance notice of agency action reducing benefits and continuation of benefits if a fair hearing is requested, we held that this was indeed violated, but that the remedy is not automatic restoration of retroactive benefits to all recipients. Such a remedy would have vastly overreacted to the violation, placing a disproportionate burden on the federal government because of the deficiency of the state, continuing benefits at a rate in excess of that statutorily authorized.

In sum, we see no such manifest miscarriage of law or justice as to impel us to grant this belated motion to enlarge time.

By the Court:

Francis P. Scigliano

Clerk.

[cc: Ms. Janos, Messrs. Forrest and Rae]